

# REMARKS

In the Office Action, the Examiner rejected the claims under 35 USC §102 and 35 USC §103. These objections and rejections are fully traversed below.

The claims have been amended to further clarify the subject matter regarded as the invention and to correct typographical errors in view of the claim objections. Claims 3, 10, and 28 have been cancelled. Claims 1-2, 4-9, 11-27, and 29-41 are now pending.

Reconsideration of the application is respectfully requested based on the following remarks.

## **REJECTION OF CLAIMS UNDER 35 USC §102 AND 35 USC §103**

In the Office Action, the Examiner rejected claims 1, 2, 4-19, 22-25 under 35 USC §102(a) as being anticipated by Rune, U.S. Patent No. 6,304,913, ('Rune' hereinafter). The Examiner further rejected the claims under 35 USC §103. These rejections are fully traversed below.

Rune discloses an Internet system and method for selecting a closest server from a plurality of alternative servers. See title. Rune merely selects a server based upon the hop count. Thus, Rune discloses a standard prior art system as discussed in the background section of Applicant's specification.

Rune fails to disclose or suggest identifying a type of service (e.g., service provider) in each packet (e.g., DNS response) sent, as claimed. Moreover, although Rune associates different IP addresses with different servers, Rune fails to disclose maintaining a mapping of each different type of service (e.g., service provider) to an IP address, as claimed. Furthermore, Rune fails to disclose or suggest transmitting a plurality of DNS responses, each being transmitted via a different path associated with a different type of service. Accordingly, Applicant respectfully submits that the claims are patentable over Rune.

The Examiner rejected claim 3 over Zisapel, U.S. Patent No. 6,665,702 ('Zisapel' hereinafter). The Examiner admits that Rune does not teach the claimed method, where the

type of service indicates a service provider. While Zisapel discloses performing load balancing among ISPs, Zisapel does not disclose selecting a fastest route according to ISP, as claimed. It is also important to note that the service provider is not identified in the packets transmitted, as claimed. As such, the combination of the cited references would fail to achieve the desired result. Accordingly, Applicant respectfully submits that the claims are patentable over Rune in view of Zisapel.

The Examiner further rejects claims 20-21 and 26 under Rune in view of Bohannon, U.S. Publication #2002/0112036 (Bohannon hereinafter). The Examiner admits that Rune does not teach that “the client DNS server is configured to identify a first one of the plurality of DNS responses to be received from the network device and to respond to the client with an IP address of the type of service identified in the first one of the plurality of DNS responses.” The Examiner seeks to cure the deficiencies of Rune with Bohannon.

The Examiner cites page 6, paragraph 0130, which states that “[t]he client is then redirected to the web site that responded to the client first (the optimal site).” Again, Bohannon appears to teach a standard prior art system as discussed in the Background section of Applicant’s specification. Bohannon says nothing about a service provider. As such, Bohannon fails to cure the deficiencies of the primary reference.

The Examiner further rejects claims 27, 28, 30-41 over Rune in view of Alkatib, U.S. Patent No. 6,430,623 (‘Alkatib’ hereinafter) and Bohannon. The Examiner admits that Rune does not specifically teach:

- “a) Receiving a TCP connection request from a client;
- b) Sending a plurality of TCP acknowledgement packets.
- c) Receiving acknowledgement messages indicating receipt of acknowledgement of packets. Transmitting;
- d) Ascertaining the type of service via which TCP acknowledgement packet received was transmitted.”

The Examiner seeks to cure the deficiencies of Rune with Alkatib.

Alkatib fails to cure the deficiencies of the primary reference. More specifically, Alkatib fails to disclose or suggest the use of technology disclosed in Alkatib to consider the service provider when selecting an optimum route. Accordingly, Applicant respectfully submits that claims 27, 28, 30-41 are patentable over the cited references.

The Examiner further rejects claim 29 over Rune in view of Rune, Alkatib, Bohannon, and further in view of Brendel, U.S. Patent No. 6,182,139 ('Brendel' hereinafter).

It appears that the Examiner has cited col. 7, lines 33-35 of Brendel, which state "When client-side dispatcher 20 sees the SYN+ACK packet, it may delete the session entry and allow the session to proceed normally without altering any packets." Brendel fails to cure the deficiencies of the primary references. Accordingly, Applicant respectfully submits that claim 29 is patentable over the cited references.

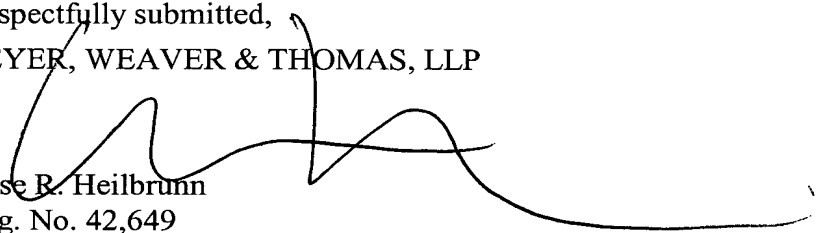
The additional references fail to cure the deficiencies of the primary reference. Based on the foregoing, it is submitted that the independent claims are patentable over the cited references. In addition, it is submitted that the dependent claims are also patentable for at least the same reasons. The additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from the cited references. Thus, it is respectfully requested that the Examiner withdraw the rejection of the claims under 35 USC §102 and 35 USC §103.

**SUMMARY**

An early Notice of Allowance is earnestly solicited. If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicants hereby petition for an extension of time which may be required to maintain the pendency of this case, and any required fee for such extension or any further fee required in connection with the filing of this Amendment is to be charged to Deposit Account No. 50-0388 (Order No. CISC199).

Respectfully submitted,  
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